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UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

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THE KING'S ENGLISH, INC., et. al.,  
  
Plaintiffs

vs.

MARK SHURTLEFF, In his official  
capacity as ATTORNEY GENERAL OF  
THE STATE OF UTAH, et. al.,

Defendants.

AFFIDAVIT OF MARK L. SHURTLEFF  
AND DAVID YOCOM

Case No. 2:05CV00485

Judge Dee Benson

STATE OF UTAH                    )  
  : ss.  
COUNTY OF SALT LAKE    )

MARK L. SHURTLEFF and DAVID YOCUM, being first duly sworn upon oath, depose  
and state:

1.       I, Mark L. Shurtleff, am the Attorney General of the State of Utah charged with  
enforcement of the laws of the State of Utah.

2.       I, David Yocom, am the District Attorney for Salt Lake County, charged with  
enforcement of the laws of Salt Lake County and the State of Utah.

3. We are named defendants in the above entitled matter and are familiar with the contents of House Bill 260, Amendments Related to Pornographic and Harmful Materials, passed by the 2005 Utah Legislature.

4. House Bill 260 is directed at Internet service providers (ISPs) and Utah-based Internet content providers. In the event ISPs do not make filtering or blocking systems available to their customers they may be subject to criminal penalties under the Act. In the event Utah-based content providers post material harmful to minors on the Internet, and do not label their content, they may be subject to criminal penalties under the Act.

5. We have viewed the web sites of The King's English, Sam Weller's Zion Bookstore, and the ACLU of Utah, plaintiffs herein, and we find nothing on those web sites which violates the provisions of House Bill 260.

6. The web sites we have viewed to make this determination are: [kingsenglish.booksense.com](http://kingsenglish.booksense.com) (The King's English), [www.samwellers.com](http://www.samwellers.com) (Sam Weller's Zion Bookstore), [www.acluutah.org](http://www.acluutah.org) (ACLU of Utah).

7. While the Act is not currently being enforced because of its delayed implementation dates, were the Act to be enforced we find it extremely difficult to conceive of a scenario in which we would regard these plaintiffs as posting anything on their websites which would be in violation of the Act.

8. Plaintiff American Booksellers Foundation for Free Expression is neither an ISP nor Utah-based content provider, but claims that it represents Utah booksellers, and claims that

some of its members “have their own web pages.” It also claims that its members are not “adult bookstores.” (Cmplt. ¶ 161.) Based upon the assumption that some of its Utah members may have their own web pages, and upon the assumption that those members are similar to plaintiffs The King’s English and Sam Weller’s Zion Bookstore, we do not believe such bookstores in Utah are posting anything on their web sites which would be deemed in violation of the provisions of House Bill 260 or the harmful to minors standard.

9. As such, not only do we believe that it would be unlikely that the above plaintiffs, or members of ABFFE, would ever be subject to prosecution under House Bill 260, we deem it extremely unlikely based upon current web sites of which we are aware.

DATED this \_\_\_\_ day of August, 2005.

\_\_\_\_\_  
MARK L. SHURTLEFF  
Attorney General

Subscribed and sworn to before me this \_\_\_\_ day of August, 2005.

\_\_\_\_\_  
Notary Public

DATED this \_\_\_\_ day of August, 2005.

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DAVID YOCOM  
Salt Lake County District Attorney

Subscribed and sworn to before me this \_\_\_\_ day of August, 2005.

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Notary Public